



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 30, 1993

Mr. Robert Shaddock  
General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR93-760

Dear Mr. Shaddock:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former article 6252-17a, V.T.C.S.<sup>1</sup>). Your request was assigned ID# 20058.

The Texas Department of Transportation has received a request for ten categories of information. You do not object to release of the first nine categories of requested information, but claim that the tenth category, in which the requestor seeks "[a]ny and all records showing the evaluation of the performance of the El Paso District Engineer," is excepted from required public disclosure under section 3(a)(11) of the Open Records Act (now found at section 552.111 of the Government Code).

You claim that the information at issue here constitutes "inter-agency or intra-agency memorandum[s] or letter[s] that would not be available by law to a party in litigation with the agency" under section 552.111 of the act and, therefore, is excepted from public disclosure. In Open Records Decision No. 615 (1993) (copy enclosed), this office reexamined the section 552.111 exception, holding that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. An agency's policymaking functions, however, do not encompass personnel matters; disclosure of information relating to such matters will not inhibit free discussion among

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<sup>1</sup>The Seventy-Third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

agency personnel as to policy issues. *Id.* at 5-6. As the information at issue here relates to personnel matters, we conclude that section 552.111 does not except it from required public disclosure. Accordingly, information responsive to the tenth category must be released in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Rebecca L. Payne". The signature is fluid and cursive, with the first name being the most prominent.

Rebecca L. Payne  
Section Chief  
Open Government Section

RLP/GCK/rho

Ref.: ID# 20058

Enclosures: Open Records Decision No. 615 (1993)  
Submitted documents

cc: Mr. Raymond C. Caballero  
Caballero, Panetta & Ortega  
521 Texas Avenue  
El Paso, Texas 79901  
(w/o enclosures)